

**GOVERNMENT OF ANDHRA PRADESH**

**ABSTRACT**

Tribal Welfare – West Godavari District –Revision Petition filed under section 6 of A.P.S.A.L.T.R, 1959 by Sri Polepalli Venkata Rao S/o Nagaraju- against the orders of Agent to Government, in SRA No.20/87, dated:20-2-1992, West Godavari, Eluru – Allowed - Orders – Issued.

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**SOCIAL WELFARE (LTR-1) DEPARTMENT**

**G.O. Ms. No.79**

Dated: 08-07-2009.

Read the following:

1. From Sri A. Rangacharyulu, counsel for the Revision Petitioners, dt:7-7-1992.
2. Government Memo No:16278/F/92/2, dt:28-8-1992.
3. From the Hon'ble High Court of A.P order in W.P MP No.15240/1992, dt:23-9-1992.
4. From the Collector, West Godavari, Eluru in ROC No.H5/9480/92, dt: 27-11-1992.
5. From the Hon'ble High Court of A.P in W.P No.12085/92, dt:22-1-2003.
6. Government Letter and Memo. No.23453/LTR-1/1996, dt:11-4-2005, 3-5-05, 1-6-05 and 17-6-2008.

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**ORDER:**

In the reference 1<sup>st</sup> read above Sri Polepalli Venkata Rao has filed a Revision Petition before the Government against the orders of the Agent to Government, Eluru in SRA No.20/87, dt:20-2-1992 in respect of land admeasuring Acres 4.30 covered by R.S No.371 of Pragadapalli (V) of Polavaram (M), West Godavari District. The main grounds of the appellant in the Revision Petition among others are as given below:-

- i. The courts below failed to note that the land now surveyed as RS No.371 with an extent of Ac.4.36 situated in Pragadapalli village originally belonged to the pattedar Smt. Damadula Rattamma under Patta No.4 and it was inherited by her daughter Smt. Kamiseti Gangamma and into turn Gangamma gifted the property to her daughter Smt. Poliseti Rattamma under a registered gift deed dated 20-6-1950 wherein it was recited that the entire un surveyed land of Ac.2.00 with any excess within boundaries was gifted to her daughter Smt. Politsetti Rattamma.
- ii. In her turn, Smt. Poliseti Rattamma sold away the very same land to the petitioner Polepalli Venkat Rao under a registered sale deed dated 21-12-1960 wherein it was recited that the very same land within boundaries which was previously gifted to her by her mother under gift deed dated 20-6-1950 was after survey found to measure Ac.4.17 covered by patta No.4 was sold to the petitioner
- iii. It was pertinent to state that LND.Peta was an un-surveyed village before 1970 and the law is now well settled that the extents mentioned in old documents do not prevail over the specific boundaries mentioned therein in an un-surveyed village vide: AIR 1948 P.C.207, 1924 Mad 493, 1963 Md 147, 1955 An.W.R.659, 1971 A.P.74, 1965 92) An.W.R.366 and 1963 S.C.1879. Hence boundaries shall prevail over the extents mentioned.
- iv. In 1960, the party herself got it surveyed privately and the land measured Ac.4.17 cents. This land was surveyed by the Survey department and found the actual extent is Ac.4.30 cents and given the re-survey number RS 371 of Pragadapalli village.
- v. The extents and the boundaries mentioned in the -

	Gift deed dt.20.6.1950 (Ac.2.00 with any excess)	Sale deed dt.21.12.1960 (Ac.4.17 as per RS 371)
East	Dasari Subbanna land	Dasari Subbanna land
South	Alapati Subbanna land	Alapati Subbanna land
West	Kamisetty Bapanamma land	Kamisetty Bapanamma land

North	Polepalli Subbarao land	Polepalli Subbarao land
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- vi. It was, therefore, clear that the land of Ac.2.00 mentioned in the gift deed dated 20.6.1950 after private survey found to measure Ac.4.17 and on official survey found to measure Ac.4.30 within the same specified boundaries and the order passed by the SDC (TW) Eluru in SR No.69/82 dated 27.9.1982 was in respect of the very same land for which the present complaint was given by the respondent i.e. Spl. Dy. Tahsildar (TW) No.II Eluru in SR No.293/84.
- vii. The courts below committed a grave mistake in thinking that the earlier order in S.R.69/82 dt.27.9.1982 was in respect of Ac.2.00 and that the present case was in respect of Ac.4.30 cents and hence difference was factually incorrect and legally unsustainable.
- viii) The court below failed to note that the petitioner's claim for ryotwari patta was pending consideration before the Commissioner of Settlements in Case No.L3/1460/85 and yet to be taken up hearing by the authority.

2. The brief history of the case is that the Spl.Dy.Tahsildar, (TW) No.II, Eluru filed complaint before Special Deputy Collector (TW), Eluru stating that the respondent Sri Polepalli Venkat Rao was in possession and enjoyment of land situated in Patta No.4 (Paimash No.28) measuring Acs.2.00 at Pragadapalli (v) of Polavaram Mandal in West Godavari District in contravention of Sec.3 (1) of Andhra Pradesh Scheduled Areas Land Transfer Regulation; that

As per Amarkam Account of 1927, this land was in the name of Damadula Rattamma, who was a non-tribal; and that the land in question was transferred from one non-tribal to another non-tribal in 1950 and later in 1960 into the hands of the respondent. It is clear that the land was in possession of a non-tribal from 1916 onwards, when the Agency Tracts Interest and Land Transfer Act 1917 had not become a statute. In view of this, there was no violation of the provisions of LTR Rules by the respondent. Hence, the Special Deputy Collector (TW) Eluru disallowed the complaint petition of Special Deputy Tahasildar (TW), Eluru No.II vide S.R. No.69/82, dated 27-9-1982. The Special Deputy.Tahsildar (TW) No.II, Eluru filed another complaint before Special Deputy Collector (TW), Eluru that the non-tribal Polepalli Venkat Rao R/o Rajampalem of Polavaram Tq. was in illegal possession of land in RS No.371 measuring Hc.1.72 (Acs.4.30) in Pragadapalli village in contravention of Section 3(1) of Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1/59 as amended by Regulation 1/70. Notice in Form-E under rule 7(2) of LTR 1959 was issued to the respondent on 18.10.1994 asking him to show cause within 20 days as to why he should not be ejected from the petition schedule land. In reply to this, the respondent submitted his reply on 12.11.1984 stating that his case was already decided by this court in SR No.69/82 on 27.9.1982 in his favour. On verification of case record of SR No.69/82, it was found that he was in possession of 2 acres of land covered by patta No.4 Paimash No.28 and filed two documents to prove as to how he came into possession and also filed Encumbrance Certificate issued by the Sub-Registrar, Polavaram. But in the case on hand, the complaint was that the respondent Venkat Rao was in possession of Acs.4.30 in RS No.371 of Pragadapalli village in contravention of Agency Regulations. The respondent failed to appear several times to prove his possession and enjoyment of this Acs.4.30 except his explanation to the show cause notice that the land covered in SR No.69/82 and in this case was one and the same. The land involved in this case was Acs.4.36 acs and the land possessed by Smt.P.Ratnayamma was only 2 acres by settlement deed of 1950 which was sold to Polepalli Venkatrao in 1960. The extent covered by the present proceedings was different though Patta No. and corresponding RS No. may be the same. The Special Deputy Collector (TW), Eluru further held that the respondent Polepalli Venkata Rao came into possession of Government land (the land became Government after taking over this estate village) and ordered for ejectment in SR No.293/84, dt.1.4.1986. Aggrieved by the order of the Special Deputy Collector (TW), filed an appeal before the Agent to Government, West Godavari, Eluru.

As seen from orders of Agent to Govt. West Godavari Dist. at Eluru in SRA No.20/87, 20.2.1992

- i. In SR No.293/84 under appeal, the lower court observed that the land referred to in SR No.69/82 i.e. Ac.2.00 covered by patta No.4 and Paimash No.28 was not the same land involved in the present case, as it was measuring Acs.4.30 and covered by RS No.371 and that both the lands were not one and the same.
- ii. The appellant contended that the difference in the extent was due to the fact the village was surveyed after it was taken under the provisions of the Estates Abolition Act. He also contended that his claim for grant of ryotwari patta was pending with the Settlement authorities.
- iii. The appellant failed to attend the lower court despite several notices issued except on 17.2.1986 and explanation dt.12.11.1984 for the show cause notice dt.18.10.1984.
- iv. If his contention that the land dealt in SR No.69/82 and land covered by present case i.e. Ac.4.30 in RS No.371 were one and the same was correct, he should have filed extracts of Settlement fair adangal and other village records to show their correlation, since the burden of proof lies on him. He failed to file these documents in the appellate court also.
- v. The Appellant further contended that his claim for grant of ryotwari patta was pending before the Settlement authorities which cannot be accepted unless supported by evidence of record.
- vi. Hence, keeping in view the above observations, it was held that the land covered by the present Appeal was different from the one dealt with by the lower court in SR No.69/82. The land under appeal as per the record produced appeared to be govt. land which cannot under any circumstances be held by a non-tribal.
- vii. The Agent to Government upheld the Lower Court order and dismiss the appeal vide SRA No.20/87, dt:20-2-1992. Hence the Revision Petition filed before the Government.

As seen from orders of Commissioner of Settlements in case No.L2/1460/85, dt.15.6.1995

- A. The Settlement Officer, Eluru took up suo-motu enquiry under section 9 of AP Regulation 2/70 for grant of Ryotwari patta in respect of RS No.371 O.S.No.28 admeasuring an extent of Hcs.1.72 situated in Pragadapalli village of Polavaram Taluk in West Godavari District. This village was part of Pithapuram Zamin Estate which was taken over by the Government on 7.9.1949 under the provisions of Estates Abolishment Act, 1948.
- B. The Settlement Officer, Eluru in SR No.11 (a) 589/77, dated 30.7.77 rejected claim of the appellant Polepalli Venkat Rao for the grant of ryotwari patta on the ground that the appellant was a non-tribal ryot and he was in occupation of the scheduled land after the Estate was taken over by the Government, further the sale transaction was also void under the LTR 1 of 1959 as amended by Regulation 1 of 1970 and he did not produce any evidence to establish his title over the scheduled land.
- C. Against the above orders, Sri Polepally Venkat Rao filed an appeal before the Director of Settlements, AP, Hyderabad. The Director of Settlements heard the arguments and perused lower court case record and passed common orders in a batch of 9 appeals on 15.1.85 observing that the appellant was a purchaser of the scheduled land later to 1970 which was violation of the Regulation 1/59 as amended by Regulation 1/70; legal infirmity thus attracted the very basis of the claim for patta and rightly so, the order of rejection passed by the Settlement Officer became unassailable and in the result, the appeals fail and were dismissed vide proceedings A.P.385/78, dt. 15.1.1985.

D. Aggrieved by the orders of the Director of Settlements AP Hyderabad, Sri Polepally Venkat Rao filed 2<sup>nd</sup> appeal before the Commissioner, Survey, Settlements & Land Records, AP, Hyderabad, urging the following grounds:

1. That the Director of Settlements had clubbed all the appeals together and disposed of the same by a common order which caused grave injustice to the appellant.
  2. The Director of Settlements failed to see the lower court records about the facts of the case.
  3. The Director of Settlements ought to have seen that the scheduled land originally belonged to D.Rathamma (non-tribal) who was the Estate Pattedar gave the land to her daughter Kamisetty Gangamma towards 'Pasupu Kumkuma' at the time of her marriage and that Kamisetty Gangamma inherited the property to her daughter Polisetty Rathamma under a Registered Settlement Deed dt.21.11.1950 and the said Rathamma sold the property to the appellant Sri Polisetty Venkata Rao under a Registered Sale Deed dt.21.12.1960. Since then, he is in continuous possession of the land till date.
  4. The Court below failed to note that the Estate Pattedar obtained possession of the land from the Land Holder before the Act 1/1917 came into force and has been in continuous possession of the Estate Pattedar and no tribal was ever in possession of the land at any time from 1917 onwards.
- E. Appeal was finally heard on 27.3.1995. Both counsel for appellant and Special GP were present and argued the case.
- F. The counsel for appellant argued that Smt.D.Rathamma (non-tribal) who was the original pattedar of the scheduled land gave the land to her daughter Kamisetty Gangamma towards 'Pasupu Kumkuma' who under registered settlement deed dt.21.11.1950 at the time of marriage, gifted the land to her daughter Polisetty Rathamma and the said Rathamma sold the property to the appellant under registered sale deed dt.21.12.1960 since then he has been in continuous possession of the land.
- G. In this case, both the vendor and vendee were non-tribals and hence the sale transaction was valid U/s 4 of Act 1/1917 and no permission was required for any transfer of land and prayed for grant of patta.
- H. The Special Government Pleader argued to remand the case to lower court for verification of the documents and afresh enquiry.
- I. In the present case, apart from copies of Settlement Deed and the Sale Deed, Special Deputy Collector (Tribal Welfare) Eluru's orders dt.27.9.1982 disallowing the complaint by Special Deputy Tahsildar (TW) No.II Eluru in respect of the same land as also Encumbrance Certificate from 1.1.1916 to 31.12.1950 were also filed. However, these were not referred in Settlement Officer's or Director of Settlement's order. The identity of lands was confirmed by the Collector, West Godavari vide ROC.No.H.4342/91, dt. 20.5.1992.
- J. Thus, held it a fit case to allow the appeal and remand the matter to Revenue Divisional Officer, Kovvur for fresh disposal after affording due opportunity to the appellant to present his case.
- K. Hence, the appeal was allowed and the matter was remanded to Revenue Divisional Officer Kovvur for fresh disposal in the above light.

Counsel for the Revision Petitioner again submitted the documents i) E.C.No. 518/92, dt. 2.9.1982 ii) Copy of correlation statement and iii) copy of fair adangal extract as directed through notice dt.3.5.2005, on the date of hearing i.e. 22.6.2005 to the presiding officer i.e. Principal Secretary (TW). The above documents were sent to

Collector, West Godavari District for authenticity of the signatures of the officials. The Mandal Revenue Officer, Polavaram vide his Lr.ROC No.279/2006 (A), dt. 29.12.2006 informed that the signatures appended on the above documents are genuine.

3. In the reference 2<sup>nd</sup> read above the Collector, West Godavari was requested to furnish the parawise remarks and connected case records and the same were furnished in the reference 4<sup>th</sup> read above.

4. In the reference 3<sup>rd</sup> read above the petitioner has approached the Hon'ble High Court of A.P in its W.P MP NO.15240/92 in W.P No.12085/92. Dt:23-9-1992, pending further orders granted the stay.

5. In the reference 5<sup>th</sup> read above, the Hon'ble High Court of A.P while disposing the WP No.12055/92. Dt:22-1-2003, directed the 1<sup>st</sup> respondent (i.e. Secy. to Government (SW)) to dispose of the Revision Petition within three months from the date of receipt of the order and the stay shall continue till disposal of the Revision Petition. After examination of the case records, notices have been sent to all concerned to attend the hearing of Revision Petition on 20-4-2005, 11-5-2005, 22-6-2005 and finally on 30-6-2008. Sri A.Rangacharyulu, Counsel for petitioner was present and prayed time for submission of written arguments. The Written arguments filed by the counsel for the petitioner on 11.7.2008 are that:

Written arguments of Counsel for Petitioner

- a. Smt.Damadula Rattamma (non-tribal) was the pattedar under Patta No.4 as per 1927 Amarakam Account roughly measuring Acs.2.00 in OS No.28 situated in Pragadapalli village which was an ex-estate village included in Pittapuram Zamin Estate which was taken over by the Government under the provisions of Estates Abolition Act, 1948 on 7.9.1949.
- b. Pragadapalli village was an unsurveyed village and the extent mentioned in patta No.4 was only a rough extent and not actually surveyed during the estimate regime.
- c. After the death of pattedar Rathamma, the above land was inherited by her daughter Smt.Kamisetty Gangamma. The said Gangamma settled the aforesaid land in favour of her daughter Polisetty Rathamma under a regd. Settlement deed dt.20.6.1950 and also mentioned the boundaries for the said land of Acs.2.00 with excess or deficit extent. The boundaries mentioned in the said document were as follows:
 

East	-	Dasari Subbanna's land
South	-	Alapati Subbanna land
West	-	Kamisetty Bapamma land
North	-	Polepalli Subba Rao land

Hence, the boundaries were specific and certain in an unsurveyed village.

- d. Smt.Polisetty Rathamma (non-tribal) sold away the said land in favour of the petitioner herein under registered sale deed dt.21.12.1960. Before this document was executed, the land was surveyed privately and found the total extent within boundaries measured Ac.4.17 cents. The boundaries mentioned in this document were the same as those mentioned in the earlier document. All the transfers were only between non-tribals and the transactions were perfectly valid.
- e. In the first case, the Spl.Dy.Collector (TW), Eluru in SR No.69/82, after enquiry, found that the land in question was transferred from non-tribal to non-tribal in 1950 and 1960 and that the land was in possession of non-tribals only from 1916 onwards as evidenced by the Encumbrance Certificate issued from 1.1.1916 to 31.12.1959 and hence disallowed the complaint of Spl.Dy.Tahsildar (TW) No.II, Eluru by orders dt.27.9.1982. In this order, the schedule land was mentioned as Paimaishi No.28 – Ac.2.00 patta No.4 of Pragadapalli village, Polavaram Taluq. By that time, the village was surveyed but the survey record was not made available to Tribal Welfare Officer.

- f. Special Deputy Tahsildar (TW No.II) again filed another complaint in 1984 under LT Regulation 1/70 against the present petitioner herein, for ejectment from the land measuring Acs.4.30 cents in RS No.371 of Pragadapalli village. It was obvious that by this date of complaint, the survey records were made available to Tribal Welfare Department. Although the land shown in this complaint was Ac.4.30 in RS No.371, the authority had not verified the correlation statement. As per correlation statement, P.No.28 with Ac.2.00 was correlated to re-survey RS No.371 with a surveyed extent of Ac.4.30 cents. This surveyed extent was the same land which was surveyed by the Survey Department which was situated within the specified boundaries as found in the Settlement Deed of 1950 and the Sale Deed of 1960. It could, therefore, be seen that the earlier orders of the SDC (TW) was also in respect of the very same land though on survey, it measured more during survey after the AP Scheduled Areas Ryotwari Settlement Regulation 2 of 1970 was promulgated by the Governor of Andhra Pradesh which came into force w.e.f. 1.7.1971. However, the Spl. Dy. Collectir (TW), Eluru ordered ejectment by his orders dt.1.4.1986 in SR No.293/84.
- g. The Agent to Government, West Godavari, Eluru in SRA No.20/87 also dismissed the appeal holding that the appellant failed to file Settlement Fair Adangal and other village records to show the correlation of old survey number and the re-survey number. He also further held that the appellant failed to establish that any case was pending before the settlement authorities for the grant of ryotwari patta. In the absence of those documents, the appellate court held that the land covered by the present appeal was different from the case dealt with by the Spl. Dy. Collector previously in SR No.69/82.
- h. As per the Govt.Memo.No.16278/F/92/1, dt. 7.8.92, the petitioner filed the documents i.e. EC No.518/82, dt. 2.9.82, Correlation statement and Fair Adangal Extract.
- i. The Encumbrance Certificate filed before the Government clearly showed that no land was acquired by the petitioner or his predecessors-in-title from any tribe. The Registered Settlement Deed dt.20.6.1950 and the registered sale deed 21.12.1960 were executed by non-tribals in favour of non-tribals. Thus, there was no contravention of the provisions of Act I of 1917 or Reg. 1/1959 as amended by Reg.1/70. The Supreme Court held that Reg.1/1970 is only prospective.
- j. As the land in question is situated in the schedule area in respect of which the A.P. Scheduled Areas Ryotwari Settlement Regulation 2 of 1970 applied, the lands shall be surveyed under the provisions of the A.P. Survey & Boundaries Act, 1923 as per Sec.6 of Reg.2/1970. As Regulation 2/1970 came into force on 1.7.1971, the Survey of these lands were taken up long thereafter and Settlement enquiries commenced only after the survey was completed and handed over the records to the Settlement Officer.
- k. After survey the land in Paimaishi No.28 was correlated to Resurvey Number 371 and the land within the specified boundaries as mentioned in the Settlement Deed of 1950 and the Sale Deed of 1960 measured Ac.4.30 cents as against Ac.2.00 (rough extent) before survey. The correlation statement filed before the Government manifestly show that old S.No.28 was correlated to RS No.371 with an extent of Ac.4.30 cents. The boundaries mentioned in the Settlement Deed dt.20.6.1950 and the Sale Deed dt.21.12.1960 were one and the same and they were specific and certain. The Settlement authorities came across several cases where they found that on survey, the land measured sometimes more and sometimes less than what was mentioned in the old documents executed at a time when the lands were not surveyed.
- l. It is a well settled principle of law that the boundaries shall prevail over the extents mentioned in the old documents provided two conditions are satisfied viz., (a) the village was not surveyed previously (b) the boundaries were certain and specific. In the instant case, the village was not surveyed before Regulation 2/1970 came into force. Secondly, the lands mentioned in the documents are in the midst of ryoti lands belonging to ryots on all the four sides. There was no scope for encroachment on any side as all the four boundaries were certain and specific. Further, the There document dt.20.6.1950 specifically mentioned Ac.2.00 with excess or deficit extent also, within the boundaries. Hence, the principle of law

mentioned by the Hon'ble High Court reported in 1955 An WR 659 was very much attracted to the facts of this case. The said judgement referred to several Privy Council and High Court decisions and the same view was also followed in AIR 1963 SC 1879. A copy of the judgement of Justice Viswanatha Sastry reported in 1955 An WR 659 was already filed before the Government of Andhra Pradesh. Hence, the land purchased by the petitioner was Ac.4.30 cents as surveyed by the Survey Department and this is the very same land which was acquired by his predecessor-in-title under the registered settlement deed of 1950. Further, the Commissioner of Settlements in his CSS & LR Ref.No.L2/1460/85, dated 15.6.1995 observed in the last paragraph of his order as follows:

“The identity of lands has been confirmed by Collector, West Godavari vide ROC No.H/4342/91, dt. 20.5.92”

This concludes the issue that the land in dispute in RS 371 is the very same land in old survey No.28 of Pragadapalli village. Further, the correlation statement filed before this court clearly shown that OS No.28 was correlated to RS 371 with an extent of Ac.4.30 cents. Thus, the petitioner established his case that what he and his predecessor in title acquired was the very same land which is now in dispute in this case.

- m. In view of the above, it was clear that the earlier order of the Special Deputy Collector(TW), Eluru in SR No.69/82, dated 27.9.1982 is in respect of the very same land for which the Special Deputy Collector passed orders in SR No.293/84, dated 1.4.1986. There was absolutely no contravention of the provisions of the Act I of 1917 or Regulation 1 of 1959 in as much as the land was never held by any tribal at any time after 1916 and no tribal had claimed any part of the land as belonging to him at any stage during the last 26 years. As the schedule land is in the midst of ryoti land of other non-tribal ryots on all four sides, there was no scope for encroachment on any sides. Regulation 1 of 1970 was not at all attracted as the petitioner acquired the land in 1960 long before Regulation 1 of 1970 came into force. Thus, there was no violation of provisions of the law for the time being in force in the scheduled area.
- n. Hence, prayed the Hon'ble Court to allow the revision and set aside orders of the authorities.

As per orders of Hon'ble Justice Viswanatha Sastry of the Hon'ble High Court of Judicature of Andhra at Guntur as reported in 1955 An WR 659 between Thalari Nookayya and others (Appellants) and Konathala Jaggarao and others (Respondents) as followed in AIR 1963 SC 1879 *“Unless it is very clear from the circumstances surrounding the sale that a larger or smaller extent than what is covered by the boundaries was intended to be sold, the boundaries must prevail over the description of the area sold. Errors as regards the statement of area are likely to occur in the case of unsurveyed lands, but the boundaries, if they are well defined and ascertainable with certainty, give an accurate idea of the land intended to be conveyed under the deed.”*

6. Government after careful examination of all material evidence of documents and keeping in view of the written arguments submitted by the counsel for the petitioner established that:

The land under dispute was transferred between non-tribals as under:

As per Amarakam Account of 1927 and EC NO.518/82, dt.2-9-1982 of Sub Registrar's Office, Polavaram, Damadula Rathamma (NT) was pattedar. She gave her property to her daughter Smt.Kamisetty Gangamma, Later in the year 1950, Kamisetty Gangamma settled the property in favour of her daughter Smt.Polisetty Ratnayamma (NT) through registered settlement deed dt.20-6-1950. Subsequently, Polisetty Ratnayamma sold the property to the non tribal petitioner (herein Revision Petitioner) Sri Polepalli Venkat Rao through registered sale deed dt.21-12-1960. Apparently all the transactions took place between non tribals only from the beginning and no tribal was ever in possession.

- i) In the first instance in SR No.69/82, dt.27.9.1982 before the Special Deputy Collector (TW) Eluru, the possession of 2 acres in old patta No.4 under Paimaishi

No.28 at Pragadapalli (v) of Polavaram Taluq was not disputed as the transfer was effected between non-tribals and that the non-tribals were in possession even before the Act I/1917 came into force.

- ii) In the second case in SR No.293/84, dt. 1.4.1986, the SDC (TW) Eluru found the petitioner herein was in possession of Acs.4.30 in RS No.371 of the same village which was entirely different though patta number and corresponding Resurvey number are one and the same. And held that the respondent i.e. petitioner herein came into possession of Govt. land (i.e. the land became Govt. after taking over this estate village).
- iii) Subsequently, the Agent to Govt. WG Dist. at Eluru in Appeal SRA No.20/87, dt. 20.2.1992 found that if the contention of the appellant that the extents covered in SR No.69/82 and present appeal were one and the same, he should have filed extracts of Settlement Fair Adangal and other village records to show their correlation, since the burden of proof lied on him. His further contention that his claim for grant of ryotwari patta was pending before Settlement authorities could not be accepted as not supported by evidence of record.
- iv) As seen from the E.C. 518/82, dt. 2.9.1982 issued by Sub-Registrar, Polavaram for the period from 1916 to 1959, the land was in possession of non-tribals only and was never in possession of any tribal.
- v) The two transactions i.e. Settlement transaction in 1950 through registered settlement deed dt.20.6.1950 and sale transaction in 1960 through registered sale deed dt.21.12.1960 was between non-tribals only much before the Regulation 1/70 came into force. Hence, there is no contravention of provisions under any LTR Regulations i.e. 1917, 1959 and 1970.
- vi) The boundaries mentioned are one and the same in both the registered documents of 1950 and 1960 but the extents were shown as 2.00 acres and 4.30 acres. The variation is found after survey of the land within the same boundaries. Hence, as per law the land in question in the present proceedings and in the earlier proceedings is one and the same.
- vii) As per Fair Adangal, extent is Acs.4.25 in RS 371 (i.e. old patta No.28) which corresponds to the previous extent of Acs.2.00 before resurvey as allowed in SR No.69/82, dt. 27.9.1982 of Spl. Dy.Coilector (TW) Eluru.
- viii) Correlation statement confirmed old survey No.28 as RS 371.
- ix) The Dist. Collector, WG Dist. Eluru confirmed identity of the lands vide ROC No.H.4342/91, dt. 20.5.1992 i.e. 3 months later to the orders passed by him in appeal No.20/87, dt.20.2.1992 (as mentioned and allowed in the orders of Commissioner of Settlements in Appeal No.L2/1460/85, dt. 15.6.1995).
- x) The genuineness of the documents i.e. Encumbrance Certificate, Correlation Statement, Settlement Fair Adangal was confirmed by MRO Polavaram in Lr. ROC No.279/2006 (A), dt.29.12.2006 when referred by the Government for authenticity.
- xi) Hence, in the light of the above clinching evidences, the extent of Ac.2.00 in old patta No.4 (Paimashi No.28) of Pragadapalli village allowed by the lower court in SR No.69/82, dt. 27.9.1982 and the extent of Acs.4.30 in Re-survey No.371 of the same Pragadapalli village disallowed subsequently by the same lower court in SR No.293/84, dt. 1.4.1986 and by the appellate authority i.e. Agent to Govt. West Godavari District in SRA No.20/87, dt. 20.2.1992, are one and the same. The variation is due to the fact that Pragadapalli village was an un-surveyed village in Pittapuram Zamin Estate till it was taken over by the Government under Estates Abolishment Act, 1948 on 7.9.1949 and the extent in Patta No.4 was only a rough extent (not actually surveyed during the estate regime) which measured more after the survey as per Regulation 2/70 (came into force from 1.7.1971) conducted long thereafter.

7. Government after careful examination of the matter set aside the orders of Agent to Government, Eluru in SRA No.20/87, dt.20-2-1992 and allowed the Revision Petition accordingly.



8. The Collector, West Godavari / the Agent to Government, Eluru is requested to take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.K.TIGIDI,  
PRL.SECRETARY TO GOVERNMENT.

To

The Collector, West Godavari District.

(With RPAD of the following Records)

1.Case SRA No.20/87 containing pp 1-80 pages only.

2.S.R No.293/84 containing pp 1-37, and

3.S.R No.69/82 containing 1-50 pages only.

The Addl. Agent to Government, Eluru, West Godavari District

The Special Dy. Tahsildar (TW), KR puram, West Godavari Dist.

Sri Polepalli Venkat Rao S/o Nagaraju

R/o Pragadapalli (V) Polavaram (M), West Godavari.

Sri A. Rangacharyulu, Advocate,

H.No.3-6-782, Flat No.106, 2<sup>nd</sup> Floor,

B-Block 'Banjara Sadan Aparttments, Hyderabad.

Copy to the P.S. to M (TW&RAID).

SF / SC

//FORWARDED BY ORDER//

SECTION OFFICER